

**APPENDIX D**  
**Draft Securitization Legislation**

*The people of the State of California do enact as follows:*

**SECTION 1.** The Legislature finds and declares as follows:

[To come.]

**SECTION 2.** Article 5.6 is added to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, to read as follows:

Article 5.6

848. For the purposes of this article, the following terms shall have the following meanings:

(a) "Bank" means the California Infrastructure and Economic Development Bank.

(b) "Financing entity" means the bank, any special purpose trust, as defined in Section 63010 of the Government Code, that is authorized by the bank to issue recovery bonds or acquire recovery property, or any other entity authorized by the bank to issue recovery bonds or acquire recovery property, or both. The bank may authorize an entity other than a special purpose trust, as defined in Section 63010 of the Government Code, to issue recovery bonds only if all of the following conditions are met:

(1) The bank by resolution has determined that allowing another entity to issue recovery bonds would produce greater overall ratepayer savings, taking into account all relevant considerations including, but not limited to, the exclusion of interest on recovery bonds issued by the bank from investors' gross income for California or federal income tax purposes, or both, earnings on funds collected and held by the electrical corporation prior to deposit in a fund or account for the benefit of holders of recovery bonds, and all costs of issuance and other transaction costs.

(2) The bank submits to the Joint Legislative Budget Committee a certified copy of the bank's resolution, together with a report setting forth the basis for the bank's determination that a financing entity other than the bank or a special purpose trust will produce greater ratepayer savings and at least 30 days have elapsed from the date of submission.

(c) "Financing order" shall mean an order of the commission adopted in accordance with this article, which shall include, without limitation, a procedure to require the expeditious approval by the commission of

periodic adjustments to fixed recovery amounts and any associated fixed recovery tax amounts included therein to ensure recovery of all recovery costs and the costs of capital associated with the proposed provision, recovery, financing, or refinancing thereof, including the costs of issuing, servicing, and retiring the recovery bonds contemplated by the financing order. These adjustments shall not impose fixed recovery amounts or fixed recovery tax amounts upon customers who were not subject to the fixed transition amounts and fixed recovery tax amounts in the pertinent financing order.

(d) "Fixed recovery amounts" means those nonbypassable rates and other charges, including, but not limited to, distribution, connection, disconnection, and termination rates and charges, that are authorized by the commission in a financing order to recover (1) recovery costs, and (2) the costs of providing, recovering, financing, or refinancing the recovery costs through a plan approved by the commission in the financing order, including the costs of issuing, servicing, and retiring recovery bonds.

(e) "Recovery bonds" means bonds, notes, certificates of participation or beneficial interest, or other evidences of indebtedness or ownership, issued pursuant to an executed indenture or other agreement of a financing entity, the proceeds of which are used, directly or indirectly, to provide, recover, finance, or refinance recovery costs, and that are directly or indirectly secured by, or payable from, recovery property.

(f) "Recovery costs" means (1) the unamortized balance of the regulatory asset arising and existing pursuant to the commission's Decision No. 03-12-\_\_\_, (2) federal and State of California income and franchise taxes associated with recovery of the unamortized balance of that regulatory asset, (3) costs of issuing recovery bonds, and (4) professional fees, consultant fees, redemption premiums, tender premiums and other costs incurred by the recovery corporation in using proceeds of recovery bonds to acquire outstanding securities of the recovery corporation.

(g) (1) "Recovery property" means the property right created pursuant to this article including, without limitation, the right, title, and interest of the recovery corporation or its transferee:

(A) In and to the tariff established pursuant to a financing order, as adjusted from time to time in accordance with Section 848.1 and the financing order.

(B) To be paid the amount that is determined in a financing order to be the amount that the recovery corporation or its transferee is lawfully entitled to receive pursuant to the provision of this article and the proceeds thereof, and in and to all revenues, collections, claims, payments, money,

or proceeds of or arising from the tariff or constituting fixed recovery amounts that are the subject of a financing order including those nonbypassable rates and other charges referred to in subdivision (d).

(C) In and to all rights to obtain adjustments to the tariff pursuant to the terms of subdivision (c) of Section 848.1 and the financing order.

(2) "Recovery property" shall constitute a current property right notwithstanding the fact that the value of the property right will depend on consumers using electricity or, in those instances where consumers are customers of the recovery corporation, the recovery corporation performing certain services.

(3) For purposes of Sections 63010 and 63025.1 of the Government Code, "recovery property" also shall mean certificates representing primarily interests in the property rights described in paragraphs (1) and (2).

(h) "Fixed recovery tax amounts" means those nonbypassable rates and other charges, including, but not limited to, distribution, connection, disconnection, and termination rates and charges, that are needed to recover federal and State of California income and franchise taxes associated with fixed recovery amounts authorized by the commission in the financing order and that are not financed from proceeds of recovery bonds.

(i) "Recovery corporation" means Pacific Gas and Electric Corporation, the electrical corporation described in the commission's Decision No. 03-12-\_\_\_.

848.1. (a) No later than 120 days after the effective date of this act, and from time to time thereafter, the recovery corporation shall apply to the commission for a determination that some or all of the recovery corporation's recovery costs may be recovered through fixed recovery amounts, which would therefore constitute recovery property under this article, and that any portion of the recovery corporation's federal and State of California income and franchise taxes associated with those fixed transition amounts not financed from proceeds of recovery bonds be recovered through fixed recovery tax amounts. The recovery corporation may request this determination by the commission in separate proceedings or in an order instituting investigation or order instituting rulemaking, or both. The recovery corporation shall in its application specify that its customers would benefit from reduced rates on a present value basis through the issuance of recovery bonds. The commission shall designate fixed recovery amounts and any associated fixed recovery tax amounts as recoverable in one or more financing orders if the commission determines,

as part of its findings in connection with the financing order, that the designation of the fixed recovery amounts and any associated fixed recovery tax amounts, and the issuance of recovery bonds in connection with some or all of the fixed recovery amounts, would reduce the rates on a present value basis that the recovery corporation's customers would have paid if the financing order were not adopted. Fixed recovery amounts and any associated fixed recovery tax amounts shall only be imposed on existing and future consumers in the service territory in which the recovery corporation provided electricity delivery services as of December 18, 2003. Customers shall continue to pay fixed recovery amounts and any associated amounts until the recovery bonds are paid in full by the financing entity. Once the recovery bonds have been paid in full, the payment by customers of fixed energy recovery amounts and fixed energy recovery tax amounts shall terminate. The recovery corporation shall not be found to have acted imprudently or unreasonably for failing to amend a power purchase contract where the amendment would modify or waive an existing requirement that the seller be a qualifying facility pursuant to federal law.

(b) The commission shall establish an effective mechanism that ensures recovery of recovery costs through fixed recovery amounts and any associated fixed recovery tax amounts from all existing and future consumers in the service territory in which the recovery corporation provided electricity delivery services as of December 18, 2003; provided that the costs shall not be recoverable from new customer load or incremental load of an existing customer where the load is being met through a direct transaction and the transaction does not otherwise require the use of transmission or distribution facilities owned by the utility. However, the obligation to pay fixed recovery amounts and any associated fixed recovery tax amounts cannot be avoided by the formation of a local publicly owned electrical utility on or after December 18, 2003, or by annexation of any portion of an recovery corporation's service area by an existing local publicly owned electric utility.

(c) Recovery bonds authorized by the commission's financing orders may be issued in one or more series on or before December 31, 2006.

(d) The commission may issue financing orders in accordance with this article to facilitate the provision, recovery, financing, or refinancing of recovery costs. A financing order may be adopted only upon the application of the recovery corporation and shall become effective in accordance with its terms only after the recovery corporation files with the commission the recovery corporation's written consent to all terms and

conditions of the financing order. A financing order may specify how amounts collected from a customer shall be allocated between fixed recovery amounts, any associated fixed recovery tax amounts and other charges.

(e) Notwithstanding Section 455.5, Section 1708, or any other provision of law, except as otherwise provided in this subdivision with respect to recovery property that has been made the basis for the issuance of recovery bonds, the financing orders, the fixed recovery amounts and any associated fixed recovery tax amounts shall be irrevocable, and the commission shall not have authority either by rescinding, altering, or amending the financing order or otherwise, to revalue or revise for ratemaking purposes the costs of recovering, financing, or refinancing the recovery costs, determine that the fixed recovery amounts, any associated fixed recovery tax amounts or rates are unjust or unreasonable, or in any way reduce or impair the value of recovery property either directly or indirectly by taking fixed recovery amounts or any associated fixed recovery tax amounts into account when setting other rates for the recovery corporation; nor shall the amount of revenues arising with respect thereto be subject to reduction, impairment, postponement, or termination. Except as otherwise provided in this subdivision, the State of California does hereby pledge and agree with the recovery corporation, owners of recovery property and holders of recovery bonds that the state shall neither limit nor alter the fixed recovery amounts, any associated fixed recovery tax amounts, recovery property, financing orders, and all rights thereunder until the obligations, together with the interest thereon, are fully met and discharged, provided nothing contained in this section shall preclude the limitation or alteration if and when adequate provision shall be made by law for the protection of the recovery corporation, owners and holders. The bank as agent for the state is authorized to include this pledge and undertaking for the state in these obligations. Notwithstanding any other provision of this section, the commission shall approve the adjustments to the fixed recovery amounts and any associated fixed recovery tax amounts as may be necessary to ensure timely recovery of all recovery costs that are the subject of the pertinent financing order, and the costs of capital associated with the provision, recovery, financing, or refinancing thereof, including the costs of issuing, servicing, and retiring the recovery bonds contemplated by the financing order. The adjustments shall not impose fixed recovery amounts or fixed recovery tax amounts upon customers who were not subject to the fixed recovery

amounts or any associated fixed recovery tax amounts in the pertinent financing order.

(f)(1) Financing orders issued under this article do not constitute a debt or liability of the state or of any political subdivision thereof, other than the financing entity, and do not constitute a pledge of the full faith and credit of the state or any of its political subdivisions, other than the financing entity, but are payable solely from the funds provided therefor under this article and shall be consistent with Sections 1 and 18 of Article XVI of the California Constitution. This subdivision shall in no way preclude bond guarantees or enhancements pursuant to this article. All the recovery bonds shall contain on the face thereof a statement to the following effect:

"Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of, or interest on, this bond."

(2) The issuance of recovery bonds under this article shall not directly, indirectly, or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation therefor or to make any appropriation for their payment. Nothing in this section shall prevent, or be construed to prevent, the financing entity from pledging the full faith and credit of the infrastructure bank fund to the payment of recovery bonds or issuance of recovery bonds authorized pursuant to this article.

(g) The commission shall establish procedures for the expeditious processing of applications for financing orders, including the approval or disapproval thereof within 120 days of the recovery corporation's making application therefor. The commission shall provide in any financing order for a procedure for the expeditious approval by the commission of periodic adjustments to the fixed recovery amounts and any associated fixed recovery tax amounts that are the subject of the pertinent financing order, as required by subdivision (d). The procedure shall require the commission to determine whether the adjustments are required on each anniversary of the issuance of the financing order, and at the additional intervals as may be provided for in the financing order, and for the adjustments, if required, to be approved within 90 days of each anniversary of the issuance of the financing order, or of each additional interval provided for in the financing order.

(h) Fixed recovery amounts shall constitute recovery property when, and to the extent that, a financing order authorizing the fixed recovery amounts has become effective in accordance with this article, and the recovery property shall thereafter continuously exist as property for all purposes with all of the rights and privileges of this article for the period

and to the extent provided in the financing order, but in any event until the recovery bonds are paid in full, including all principal, interest, premium, costs, and arrearages thereon.

(h) Any surplus fixed recovery amounts in excess of the amounts necessary to pay principal, premium, if any, interest and expenses of the issuance of the recovery bonds shall be remitted to the financing entity and may be used to benefit the recovery corporation's customers if this would not result in a recharacterization of the tax, accounting, and other intended characteristics of the financing, including, but not limited to, the following:

(1) Avoiding the recognition of debt on the recovery corporation's balance sheet for financial accounting and regulatory purposes.

(2) Treating the recovery bonds as debt of the recovery corporation or its affiliates for federal income tax purposes.

(3) Treating the transfer of the recovery property by the recovery corporation as a true sale for bankruptcy purposes.

(4) Avoiding any adverse impact of the financing on the recovery corporation's credit rating.

848.2. (a) Financing entities may issue recovery bonds upon approval by the commission in the pertinent financing orders. Recovery bonds shall be nonrecourse to the credit or any assets of the recovery corporation, other than the recovery property as specified in the pertinent financing order.

(b) The recovery corporation may sell and assign all or portions of its interest in recovery property to an affiliate. The recovery corporation or its affiliate may sell or assign its interests to one or more financing entities that make that property the basis for issuance of recovery bonds to the extent approved in the pertinent financing orders. The recovery corporation, its affiliate, or financing entities may pledge recovery property as collateral, directly or indirectly, for recovery bonds to the extent approved in the pertinent financing orders providing for a security interest in the recovery property, in the manner as set forth in Section 848.3. In addition recovery property may be sold or assigned by (1) the financing entity or a trustee for the holders of recovery bonds in connection with the exercise of remedies upon a default, or (2) any person acquiring the recovery property after a sale or assignment pursuant to this subdivision.

(c) To the extent that any interest in recovery property is so sold or assigned, or is so pledged as collateral, the commission shall authorize the recovery corporation to contract with the financing entity that it will continue to operate its system to provide service to its customers, will

collect amounts in respect of the fixed recovery amounts for the benefit and account of the financing entity, and will account for and remit these amounts to or for the account of the financing entity. Contracting with the financing entity in accordance with that authorization shall not impair or negate the characterization of the sale, assignment, or pledge as an absolute transfer, a true sale, or security interest, as applicable.

(d) Notwithstanding Section 1708 or any other provision of law, any requirement under this article or a financing order that the commission take action with respect to the subject matter of a financing order shall be binding upon the commission, as it may be constituted from time to time, and any successor agency exercising functions similar to the commission, and the commission shall have no authority to rescind, alter, or amend that requirement in a financing order. The approval by the commission in a financing order of the issuance by the recovery corporation or a financing entity of recovery bonds shall include the approvals, if any, as may be required by Article 5 (commencing with Section 816) and Section 701.5. Nothing in Section 701.5 shall be construed to prohibit the issuance of recovery bonds upon the terms and conditions as may be approved by the commission in a financing order. Section 851 shall not be applicable to the transfer or pledge of recovery property, the issuance of recovery bonds, or related transactions approved in a financing order.

848.3. (a) A security interest in recovery property is valid, is enforceable against the pledgor and third parties, subject to the rights of any third parties holding security interests in the recovery property perfected in the manner described in this section, and attaches when all of the following have taken place:

(1) The commission has issued the financing order authorizing the fixed recovery amounts included in the recovery property.

(2) Value has been given by the pledgees of the recovery property.

(3) The pledgor has signed a security agreement covering the recovery property.

(b) A valid and enforceable security interest in recovery property is perfected when it has attached and when a financing statement has been filed in accordance with Chapter 5 (commencing with Section 9501) of Division 9 of the Commercial Code naming the pledgor of the recovery property as "debtor" and identifying the recovery property. Any description of the recovery property shall be sufficient if it refers to the financing order creating the recovery property. A copy of the financing statement shall be filed with the commission by the recovery corporation

that is the pledgor or transferor of the recovery property, and the commission may require the recovery corporation to make other filings with respect to the security interest in accordance with procedures it may establish, provided that the filings shall not affect the perfection of the security interest.

(c) A perfected security interest in recovery property is a continuously perfected security interest in all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting security interests shall rank according to priority in time of perfection. Recovery property shall constitute property for all purposes, including for contracts securing recovery bonds, whether or not the revenues and proceeds arising with respect thereto have accrued.

(d) Subject to the terms of the security agreement covering the recovery property and the rights of any third parties holding security interests in the recovery property perfected in the manner described in this section, the validity and relative priority of a security interest created under this section is not defeated or adversely affected by the commingling of revenues arising with respect to the recovery property with other funds of the recovery corporation that is the pledgor or transferor of the recovery property, or by any security interest in a deposit account of that recovery corporation perfected under Division 9 (commencing with Section 9101) of the Commercial Code into which the revenues are deposited. Subject to the terms of the security agreement, upon compliance with the requirements of subdivision (b)(1) of Section 9312 of the Commercial Code, the pledgees of the recovery property shall have a perfected security interest in all cash and deposit accounts of the recovery corporation in which revenues arising with respect to the recovery property have been commingled with other funds, but the perfected security interest shall be limited to an amount not greater than the amount of the revenues with respect to the recovery property received by the recovery corporation within 12 months before (1) any default under the security agreement or (2) the institution of insolvency proceedings by or against the recovery corporation, less payments from the revenues to the pledgees during that 12-month period.

(e) If an event of default occurs under the security agreement covering the recovery property, the pledgees of the recovery property, subject to the terms of the security agreement, shall have all rights and remedies of a secured party upon default under Division 9 (commencing with Section 9101) of the Commercial Code, and shall be entitled to foreclose or otherwise enforce their security interest in the recovery property, subject to

the rights of any third parties holding prior security interests in the recovery property perfected in the manner provided in this section. In addition, the commission may require, in the financing order creating the recovery property, that, in the event of default by the recovery corporation in payment of revenues arising with respect to the recovery property, the commission and any successor thereto, upon the application by the pledgees or transferees, including transferees under Section 848.4, of the recovery property, and without limiting any other remedies available to the pledgees or transferees by reason of the default, shall order the sequestration and payment to the pledgees or transferees of revenues arising with respect to the recovery property. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor, or transferor of the recovery property. Any surplus in excess of amounts necessary to pay principal, premium, if any, interest, costs, and arrearages on the recovery bonds, and other costs arising under the security agreement, shall be remitted to the debtor or to the pledgor or transferor.

(f) Section 5451 of the Government Code shall not apply to any pledge of recovery property by a financing entity. Sections 9204 and 9205 of the Commercial Code shall apply to a pledge of recovery property by the recovery corporation, an affiliate of the recovery corporation, or a financing entity.

(g) This section sets forth the terms by which a consensual security interest can be created and perfected in the recovery property. Unless otherwise ordered by the commission with respect to any series of recovery bonds on or prior to the issuance of the series, there shall exist a statutory lien as provided in this subdivision. Upon the effective date of the financing order, there shall exist a first priority lien on all recovery property then existing or thereafter arising pursuant to the terms of the financing order. This lien shall arise by operation of this section automatically without any action on the part of the recovery corporation, any affiliate thereof, the financing entity, or any other person. This lien shall secure all obligations, then existing or subsequently arising, to the holders of the recovery bonds issued pursuant to the financing order, the trustee or representative for the holders, and any other entity specified in the financing order. The persons for whose benefit this lien is established shall, upon the occurrence of any defaults specified in the financing order, have all rights and remedies of a secured party upon default under Division 9 (commencing with Section 9101) of the Commercial Code, and shall be entitled to foreclose or otherwise enforce this statutory lien in the

recovery property. This lien shall attach to the recovery property regardless of who shall own, or shall subsequently be determined to own, the recovery property including the recovery corporation, any affiliate thereof, the financing entity, or any other person. This lien shall be valid, perfected, and enforceable against the owner of the recovery property and all third parties upon the effectiveness of the financing order without any further public notice; provided, however, that any person may, but shall not be required to, file a financing statement in accordance with subdivision (b). Financing statements so filed may be "protective filings" and shall not be evidence of the ownership of the recovery property.

A perfected statutory lien in recovery property is a continuously perfected lien in all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting liens shall rank according to priority in time of perfection. Recovery property shall constitute property for all purposes, including for contracts securing recovery bonds, whether or not the revenues and proceeds arising with respect thereto have accrued.

In addition, the commission may require, in the financing order creating the recovery property, that, in the event of default by the recovery corporation in payment of revenues arising with respect to recovery property, the commission and any successor thereto, upon the application by the beneficiaries of the statutory lien, and without limiting any other remedies available to the beneficiaries by reason of the default, shall order the sequestration and payment to the beneficiaries of revenues arising with respect to the recovery property. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor, or transferor of the recovery property. Any surplus in excess of amounts necessary to pay principal, premium, if any, interest, costs, and arrearages on the recovery bonds, and other costs arising in connection with the documents governing the recovery bonds, shall be remitted to the debtor or to the pledgor or transferor.

848.4. (a) A transfer of recovery property by the recovery corporation to an affiliate or to a financing entity, or by an affiliate of the recovery corporation or a financing entity to another financing entity, which the parties have in the governing documentation expressly stated to be a sale or other absolute transfer, in a transaction approved in a financing order, shall be treated as an absolute transfer of all of the transferor's right, title, and interest (as in a true sale), and not as a pledge or other financing, of

the recovery property, other than for federal and state income and franchise tax purposes. Granting to holders of recovery bonds a preferred right to revenues of the recovery corporation, or the provision by the company of other credit enhancement with respect to recovery bonds, shall not impair or negate the characterization of any transfer as a true sale, other than for federal and state income and franchise tax purposes.

(b) A transfer of recovery property shall be deemed perfected as against third persons when both of the following have taken place:

(1) The commission has issued the financing order authorizing the fixed recovery amounts included in the recovery property.

(2) An assignment of the recovery property in writing has been executed and delivered to the transferee.

(c) As between bona fide assignees of the same right for value without notice, the assignee first filing a financing statement in accordance with Chapter 5 (commencing with Section 9501) of Division 9 of the Commercial Code naming the assignor of the recovery property as debtor and identifying the recovery property has priority. Any description of the recovery property shall be sufficient if it refers to the financing order creating the recovery property. A copy of the financing statement shall be filed by the assignee with the commission, and the commission may require the assignor or the assignee to make other filings with respect to the transfer in accordance with procedures it may establish, but these filings shall not affect the perfection of the transfer.

848.5. Any successor to the recovery corporation, whether pursuant to any bankruptcy, reorganization, or other insolvency proceeding, or pursuant to any merger, sale, or transfer, by operation of law, or otherwise, shall perform and satisfy all obligations of the recovery corporation pursuant to this article in the same manner and to the same extent as the recovery corporation, including, but not limited to, collecting and paying to the holders of recovery bonds or their representatives or the applicable financing entity revenues arising with respect to the recovery property sold to the applicable financing entity or pledged to secure recovery bonds. Any such successor to the recovery corporation shall be entitled to receive any fixed recovery tax amounts otherwise payable to the recovery corporation.

848.6. The authority of the commission to issue financing orders pursuant to Section 848.1 shall expire on December 31, 2006. The expiration of the authority shall have no effect upon financing orders adopted by the

commission pursuant to this article or any recovery property arising therefrom, or upon the charges authorized to be levied thereunder, or the rights, interests, and obligations of the recovery corporation or a financing entity or holders of recovery bonds pursuant to the financing order, or the authority of the commission to monitor, supervise, or take further action with respect to the order in accordance with the terms of this article and of the order.

848.7. Notwithstanding subdivision (d) of Section 848.1, the commission may order a fair and reasonable credit to ratepayers to the extent of any payments, offsets or other credits the recovery corporation actually receives from generators of electricity or other energy suppliers that would have reduced the unamortized balance of the recovery corporation's regulatory asset created under the commission's Decision No. 03-12-\_\_\_ but for the prior issuance of recovery bonds.

848.8. Regulations adopted to implement this article shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

**SECTION 3.** Subdivision (a) of Section 367 of the Public Utilities Code is amended to read as follows:

367. The commission shall identify and determine those costs and categories of costs for generation-related assets and obligations, consisting of generation facilities, generation-related regulatory assets, nuclear settlements, and power purchase contracts, including, but not limited to, restructurings, renegotiations or terminations thereof approved by the commission, that were being collected in commission-approved rates on December 20, 1995, and that may become uneconomic as a result of a competitive generation market, in that these costs may not be recoverable in market prices in a competitive market, and appropriate costs incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, that the commission determines are reasonable and should be recovered, provided that these additions are necessary to maintain the facilities through December 31, 2001. These uneconomic costs shall include transition costs as defined in subdivision (f) of Section 840, may include recovery costs as defined in subdivision (f) of Section 848, shall be recovered from all customers or in the case of fixed transition amounts, from the customers specified in subdivision (a) of

Section 841, and in the case of fixed recovery amounts and any associated fixed recovery tax amounts, from customers specified in Section 848.1, on a nonbypassable basis and shall:

(a) Be amortized over a reasonable time period, including collection on an accelerated basis, consistent with not increasing rates for any rate schedule, contract, or tariff option above the levels in effect on June 10, 1996; provided that, the recovery shall not extend beyond December 31, 2001, except as follows:

(1) Costs associated with employee-related transition costs as set forth in subdivision (b) of Section 375 shall continue until fully collected; provided, however, that the cost collection shall not extend beyond December 31, 2006.

(2) Power purchase contract obligations shall continue for the duration of the contract. Costs associated with any buy-out, buy-down, or renegotiation of the contracts shall continue to be collected for the duration of any agreement governing the buy-out, buy-down, or renegotiated contract; provided, however, no power purchase contract shall be extended as a result of the buy-out, buy-down, or renegotiation.

(3) Costs associated with contracts approved by the commission to settle issues associated with the Biennial Resource Plan Update may be collected through March 31, 2002; provided that only 80 percent of the balance of the costs remaining after December 31, 2001, shall be eligible for recovery.

(4) Nuclear incremental cost incentive plans for the San Onofre nuclear generating station shall continue for the full term as authorized by the commission in Decision 96-01-011 and Decision 96-04-059; provided that the recovery shall not extend beyond December 31, 2003.

(5) Costs associated with the exemptions provided in subdivision (a) of Section 374 may be collected through March 31, 2002, provided that only fifty million dollars (\$50,000,000) of the balance of the costs remaining after December 31, 2001, shall be eligible for recovery.

(6) Fixed transition amounts, as defined in subdivision (d) of Section 840, may be recovered from the customers specified in subdivision (a) of Section 841 until all rate reduction bonds associated with the fixed transition amounts have been paid in full by the financing entity.

(7) Fixed recovery amounts, as defined in subdivision (d) of Section 848, and any associated fixed recovery tax amounts, as defined in subdivision (h) of Section 848, may be recovered from the customers specified in subdivision (a) of Section 848.1 until all recovery bonds associated with the fixed amounts have been paid in full by the financing entity.

**SECTION 4.** Subdivision (d) of Section 955.1 of the Civil Code is amended to read as follows:

(d) This section does not apply to transfers or assignments of transition property, as defined in Section 840 of the Public Utilities Code, or to transfers or assignments of recovery property, as defined in Section 848 of the Public Utilities Code.

**SECTION 5.** Subdivision (l) of Section 3440.1 of the Civil Code is amended to read as follows:

(l) Transition property, as defined in Section 840 of the Public Utilities Code, or recovery property as defined in Section 848 of the Public Utilities Code.

**SECTION 6.** Subdivision (d) of Section 9109 of the Commercial Code is amended to read as follows:

(d) This division does not apply to any of the following:

- (1) A landlord's lien, other than an agricultural lien.
- (2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but Section 9333 applies with respect to priority of the lien.
- (3) An assignment of a claim for wages, salary, or other compensation of an employee.
- (4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose.
- (5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only.
- (6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract.
- (7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness.
- (8) Any loan made by an insurance company pursuant to the provisions of a policy or contract issued by it and upon the sole security of the policy or contract.
- (9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral.

(10) A right of recoupment or setoff, provided that both of the following sections apply:

(A) Section 9340 applies with respect to the effectiveness of rights of recoupment or setoff against deposit accounts.

(B) Section 9404 applies with respect to defenses or claims of an account debtor.

(11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for each of the following:

(A) Liens on real property in Sections 9203 and 9308.

(B) Fixtures in Section 9334.

(C) Fixture filings in Sections 9501, 9502, 9512, 9516, and 9519.

(D) Security agreements covering personal and real property in Section 9604.

(12) An assignment of a claim arising in tort, other than a commercial tort claim, but Sections 9315 and 9322 apply with respect to proceeds and priorities in proceeds.

(13) An assignment of a deposit account in a consumer transaction, but Sections 9315 and 9322 apply with respect to proceeds and priorities in proceeds.

(14) Any security interest created by the assignment of the benefits of any public construction contract under the Improvement Act of 1911 (Division 7 (commencing with Section 5000), Streets and Highways Code).

(15) Transition property, as defined in Section 840 of the Public Utilities Code, except to the extent that the provisions of this division are referred to in Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, and recovery property, as defined in Section 848 of the Public Utilities Code, except to the extent that the provisions of this division are referred to in Article 5.6 (commencing with Section 848) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

(16) A claim or right of an employee or employee's dependents to receive workers' compensation under Division 1 (commencing with Section 50) or Division 4 (commencing with Section 3200) of the Labor Code.

**SECTION 7.** Section 63010 of the Government Code is amended to read as follows:

63010. For purposes of this division, the following words and terms shall have the following meanings unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means the Bergeson-Peace Infrastructure and Economic Development Bank Act.

(b) "Bank" means the California Infrastructure and Economic Development Bank.

(c) "Board" or "bank board" means the Board of Directors of the California Infrastructure and Economic Development Bank.

(d) "Bond purchase agreement" means a contractual agreement executed between the bank and a sponsor, or a special purpose trust authorized by the bank or a sponsor, or both, whereby the bank or special purpose trust authorized by the bank agrees to purchase bonds of the sponsor for retention or sale.

(e) "Bonds" means bonds, including structured, senior, and subordinated bonds or other securities; loans; notes, including bond, revenue, tax or grant anticipation notes; commercial paper; floating rate and variable maturity securities; and any other evidences of indebtedness or ownership, including certificates of participation or beneficial interest, asset backed certificates, or lease-purchase or installment purchase agreements, whether taxable or excludable from gross income for federal income taxation purposes.

(f) "Cost," as applied to a project or portion thereof financed under this division, means all or any part of the cost of construction, renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, licenses, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved; the cost of all machinery, equipment, and financing charges; interest prior to, during, and for a period after completion of construction, renovation, or acquisition, as determined by the bank; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; and the cost of architectural, engineering, financial and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of any project or incidental to the construction, acquisition, or financing of any project, and transition costs or recovery costs in the case of an electrical corporation.

(g) "Economic development facilities" means real and personal property, structures, buildings, equipment, and supporting components thereof that are used to provide industrial, recreational, research, commercial, utility, or service enterprise facilities, community, educational, cultural, or social welfare facilities and any parts or combinations thereof, and all facilities or infrastructure necessary or desirable in connection therewith, including provision for working capital, but shall not include any housing.

(h) "Electrical corporation" has the meaning set forth in Section 218 of the Public Utilities Code.

(i) "Recovery bonds" has the meaning set forth in Section 848 of the Public Utilities Code.

(j) "Recovery property" has the meaning set forth in Section 848 of the Public Utilities Code.

(k) "Executive director" means the Executive Director of the California Infrastructure and Economic Development Bank appointed pursuant to Section 63021.

(l) "Financial assistance" in connection with a project, includes, but is not limited to, any combination of grants, loans, the proceeds of bonds issued by the bank or special purpose trust, insurance, guarantees or other credit enhancements or liquidity facilities, and contributions of money, property, labor, or other things of value, as may be approved by resolution of the board or the sponsor, or both; the purchase or retention of bank bonds, the bonds of a sponsor for their retention or for sale by the bank, or the issuance of bank bonds or the bonds of a special purpose trust used to fund the cost of a project for which a sponsor is directly or indirectly liable, including, but not limited to, bonds, the security for which is provided in whole or in part pursuant to the powers granted by Section 63025; bonds for which the bank has provided a guarantee or enhancement, including, but not limited to, the purchase of the subordinated bonds of the sponsor, the subordinated bonds of a special purpose trust, or the retention of the subordinated bonds of the bank pursuant to Chapter 4 (commencing with Section 63060); or any other type of assistance deemed appropriate by the bank or the sponsor, except that no direct loans shall be made to nonpublic entities other than in connection with the issuance of rate reduction bonds or recovery bonds pursuant to a financing order or in connection with a financing for an economic development facility. For purposes of this subdivision, "grant" does not include grants made by the bank except when acting as an agent or intermediary for the distribution or packaging of financing available from federal, private, or other public sources.

(m) "Financing order" has the meanings set forth in Sections 840 and 848 of the Public Utilities Code.

(n) "Guarantee trust fund" means the California Infrastructure Guarantee Trust Fund.

(o) "Infrastructure bank fund" means the California Infrastructure and Economic Development Bank Fund.

(p) "Loan agreement" means a contractual agreement executed between the bank or a special purpose trust and a sponsor that provides that the bank or special purpose trust will loan funds to the sponsor and that the sponsor will repay the principal and pay the interest and redemption premium, if any, on the loan.

(q) "Participating party" means any person, company, corporation, partnership, firm, or other entity or group of entities, whether organized for profit or not for profit, engaged in business or operations within the state and that applies for financing from the bank in conjunction with a sponsor for the purpose of implementing a project. However, in the case of a project relating to the financing of transition costs or the acquisition of transition property, or both, and in the case of a project relating to the financing of recovery costs or the acquisition of recovery property, or both, on the request of an electrical corporation, or in connection with a financing for an economic development facility, the participating party shall be deemed to be the same entity as the sponsor for the financing.

(r) "Project" means designing, acquiring, planning, permitting, entitling, constructing, improving, extending, restoring, financing, and generally developing public development facilities or economic development facilities within the state or financing transition costs or the acquisition of transition property, or both, or financing recovery costs or the acquisition of recovery property, or both, upon approval of a financing order by the Public Utilities Commission, as provided in Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code or in Article 5.6 (commencing with Section 848) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

(s) "Public development facilities" means real and personal property, structures, conveyances, equipment, thoroughfares, buildings, and supporting components thereof, excluding any housing, that are directly related to providing the following:

(1) "City streets" including any street, avenue, boulevard, road, parkway, drive, or other way that is any of the following:

(A) An existing municipal roadway.

(B) Is shown upon a plat approved pursuant to law and includes the and between the street lines, whether improved or unimproved, and may comprise pavement, bridges, shoulders, gutters, curbs, guardrails, sidewalks, parking areas, benches, fountains, plantings, lighting systems, and other areas within the street lines, as well as equipment and facilities used in the cleaning, grading, clearance, maintenance, and upkeep thereof.

(2) "County highways" including any county highway as defined in Section 25 of the Streets and Highways Code, that includes the land between the highway lines, whether improved or unimproved, and may comprise pavement, bridges, shoulders, gutters, curbs, guardrails, sidewalks, parking areas, benches, fountains, plantings, lighting systems, and other areas within the street lines, as well as equipment and facilities used in the cleaning, grading, clearance, maintenance, and upkeep thereof.

(3) "Drainage, water supply, and flood control" including, but not limited to, ditches, canals, levees, pumps, dams, conduits, pipes, storm sewers, and dikes necessary to keep or direct water away from people, equipment, buildings, and other protected areas as may be established by lawful authority, as well as the acquisition, improvement, maintenance, and management of floodplain areas and all equipment used in the maintenance and operation of the foregoing.

(4) "Educational facilities" including libraries, child care facilities, including, but not limited to, day care facilities, and employment training facilities.

(5) "Environmental mitigation measures" including required construction or modification of public infrastructure and purchase and installation of pollution control and noise abatement equipment.

(6) "Parks and recreational facilities" including local parks, recreational property and equipment, parkways and property.

(7) "Port facilities" including docks, harbors, ports of entry, piers, ships, small boat harbors and marinas, and any other facilities, additions, or improvements in connection therewith.

(8) "Power and communications" including facilities for the transmission or distribution of electrical energy, natural gas, and telephone and telecommunications service.

(9) "Public transit" including air and rail transport of goods, airports, guideways, vehicles, rights-of-way, passenger stations, maintenance and storage yards, and related structures, including public parking facilities, equipment used to provide or enhance transportation by bus, rail, ferry, or other conveyance, either publicly or privately owned, that provides to the public general or special service on a regular and continuing basis.

(10) "Sewage collection and treatment" including pipes, pumps, and conduits that collect wastewater from residential, manufacturing, and commercial establishments, the equipment, structures, and facilities used in treating wastewater to reduce or eliminate impurities or contaminants, and the facilities used in disposing of, or transporting, remaining sludge, as well as all equipment used in the maintenance and operation of the foregoing.

(11) "Solid waste collection and disposal" including vehicles, vehicle-compatible waste receptacles, transfer stations, recycling centers, sanitary landfills, and waste conversion facilities necessary to remove solid waste, except that which is hazardous as defined by law, from its point of origin.

(12) "Water treatment and distribution" including facilities in which water is purified and otherwise treated to meet residential, manufacturing, or commercial purposes and the conduits, pipes, and pumps that transport it to places of use.

(13) "Defense conversion" including, but not limited to, facilities necessary for successfully converting military bases consistent with an adopted base reuse plan.

(14) "Public safety facilities" including, but not limited to, police stations, fire stations, court buildings, jails, juvenile halls, and juvenile detention facilities.

(15) "State highways" including any state highway as described in Chapter 2 (commencing with Section 230) of Division 1 of the Streets and Highways Code, and the related components necessary for safe operation of the highway.

(t) "Rate reduction bonds" has the meaning set forth in Section 840 of the Public Utilities Code.

(u) "Revenues" means all receipts, purchase payments, loan repayments, lease payments, and all other income or receipts derived by the bank or a sponsor from the sale, lease, or other financing arrangement undertaken by the bank, a sponsor or a participating party, including, but not limited to, all receipts from a bond purchase agreement, and any income or revenue derived from the investment of any money in any fund or account of the bank or a sponsor and any receipts derived from transition property or from recovery property. Revenues shall not include moneys in the General Fund of the state.

(v) "Special purpose trust" means a trust, partnership, limited partnership, association, corporation, nonprofit corporation, or other entity authorized under the laws of the state to serve as an instrumentality of the state to accomplish public purposes and authorized by the bank to acquire,

by purchase or otherwise, for retention or sale, the bonds of a sponsor or of the bank made or entered into pursuant to this division and to issue special purpose trust bonds or other obligations secured by these bonds or other sources of public or private revenues. Special purpose trust also means any entity authorized by the bank to acquire transition property or to issue rate reduction bonds, or both, or to issue recovery bonds or to acquire recovery property, or both, subject to the approvals by the bank and powers of the bank as are provided by the bank in its resolution authorizing the entity to issue rate reduction bonds or recovery bonds.

(w) "Sponsor" means any subdivision of the state or local government including departments, agencies, commissions, cities, counties, nonprofit corporations formed on behalf of a sponsor, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions that makes an application to the bank for financial assistance in connection with a project in a manner prescribed by the bank. This definition shall not be construed to require that an applicant have an ownership interest in the project. In addition, an electrical corporation shall be deemed to be the sponsor as well as the participating party for any project relating to the financing of transition costs and the acquisition of transition property or to the financing of recovery property and the acquisition of recovery property on the request of the electrical corporation and any person, company, corporation, partnership, firm, or other entity or group engaged in business or operation within the state that applies for financing of any economic development facility, shall be deemed to be the sponsor as well as the participating party for the project relating to the financing of that economic development facility.

(x) "State" means the State of California.

(y) "Transition costs" has the meaning set forth in Section 840 of the Public Utilities Code.

(z) "Transition property" has the meaning set forth in Section 840 of the Public Utilities Code.

**SECTION 8.** Subdivision (g) of Section 63025.1 of the Government Code is amended to read as follows:

63025.1. The bank board may do or delegate the following to the executive director:

(a) Sue and be sued in its own name.

(b) As provided in Chapter 5 (commencing with Section 63070), issue bonds and authorize special purpose trusts to issue bonds, including, at

the option of the board, bonds bearing interest that is taxable for the purpose of federal income taxation, or borrow money to pay all or any part of the cost of any project, or to otherwise carry out the purposes of this division.

(c) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this division.

(d) Employ attorneys, financial consultants, and other advisers as may, in the bank's judgment, be necessary in connection with the issuance and sale, or authorization of special purpose trusts for the issuance and sale, of any bonds, notwithstanding Sections 11042 and 11043.

(e) Contract for engineering, architectural, accounting, or other services of appropriate state agencies as may, in its judgment, be necessary for the successful development of a project.

(f) Pay the reasonable costs of consulting engineers, architects, accountants, and construction, land use, recreation, and environmental experts employed by any sponsor or participating party if, in the bank's judgment, those services are necessary for the successful development of a project.

(g) Acquire, take title to, and sell by installment sale or otherwise, lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands that are located within the state, recovery property or transition property as the bank may deem necessary or convenient for the financing of the project, upon terms and conditions that it considers to be reasonable.

(h) Receive and accept from any source including, but not limited to, the federal government, the state, or any agency thereof, loans, contributions, or grants, in money, property, labor, or other things of value, for, or in aid of, a project, or any portion thereof.

(i) Make loans to any sponsor or participating party, either directly or by making a loan to a lending institution, in connection with the financing of a project in accordance with an agreement between the bank and the sponsor or a participating party, either as a sole lender or in participation with other lenders. However, no loan shall exceed the total cost of the project as determined by the sponsor or the participating party and approved by the bank.

(j) Make loans to any sponsor or participating party, either directly or by making a loan to a lending institution, in accordance with an agreement between the bank and the sponsor or participating party to refinance indebtedness incurred by the sponsor or participating party in connection

with projects undertaken and completed prior to any agreement with the bank or expectation that the bank would provide financing, either as a sole lender or in participation with other lenders.

(k) Mortgage all or any portion of the bank's interest in a project and the property on which any project is located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible.

(l) Assign or pledge all or any portion of the bank's interests in transition property and the revenues therefrom, recovery property and the revenues therefrom, or assets, things of value, mortgages, deeds of trust, bonds, bond purchase agreements, loan agreements, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible and the revenues therefrom, of a sponsor or a participating party to which the bank has made loans, and the revenues therefrom, including payment or income from any interest owned or held by the bank, for the benefit of the holders of bonds.

(m) Make, receive, or serve as a conduit for the making of, or otherwise provide for, grants, contributions, guarantees, insurance, credit enhancements or liquidity facilities, or other financial enhancements to a sponsor or a participating party as financial assistance for a project.

(n) Lease the project being financed to a sponsor or a participating party, upon terms and conditions that the bank deems proper but shall not be leased at a loss; charge and collect rents therefor; terminate any lease upon the failure of the lessee to comply with any of the obligations thereof; include in any lease, if desired, provisions that the lessee shall have options to renew the lease for a period or periods, and at rents determined by the bank; purchase any or all of the project; or, upon payment of all the indebtedness incurred by the bank for the financing of the project, the bank may convey any or all of the project to the lessee or lessees.

(o) Charge and equitably apportion among sponsors and participating parties the bank's administrative costs and expenses incurred in the exercise of the powers and duties conferred by this division.

(p) Issue, obtain, or aid in obtaining, from any department or agency of the United States, from other agencies of the state, or from any private company, any insurance or guarantee to, or for, the payment or repayment of interest or principal, or both, or any part thereof, on any loan, lease, or obligation or any instrument evidencing or securing the same, made or entered into pursuant to this division.

(q) Notwithstanding any other provision of this division, enter into any agreement, contract, or any other instrument with respect to any insurance

or guarantee; accept payment in the manner and form as provided therein in the event of default by a sponsor or a participating party; and issue or assign any insurance or guarantee as security for the bank's bonds.

(r) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary or convenient to, directly or indirectly, secure the bank's bonds, the bonds issued by a special purpose trust, or a sponsor's obligations to the bank or to a special purpose trust, including, but not limited to, bonds of a sponsor purchased by the bank or a special purpose trust for retention or sale, with funds or moneys that are legally available and that are due or payable to the sponsor by reason of any grant, allocation, apportionment or appropriation of the state or agencies thereof, to the extent that the Controller shall be the custodian at any time of these funds or moneys, or with funds or moneys that are or will be legally available to the sponsor, the bank, or the state or any agencies thereof by reason of any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof; and in the event of written notice that the sponsor has not paid or is in default on its obligations to the bank or a special purpose trust, direct the Controller to withhold payment of those funds or moneys from the sponsor over which it is or will be custodian and to pay the same to the bank or special purpose trust or their assignee, or direct the state or any agencies thereof to which any grant, allocation, apportionment or appropriation of the federal government or agencies thereof is or will be legally available to pay the same upon receipt by the bank or special purpose trust or their assignee, until the default has been cured and the amounts then due and unpaid have been paid to the bank or special purpose trust or their assignee, or until arrangements satisfactory to the bank or special purpose trust have been made to cure the default.

(s) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary, convenient, or appropriate to carry out any power expressly given to the bank by this division, including, but not limited to, agreements for the sale of all or any part, including principal, interest, redemption rights or any other rights or obligations, of bonds of the bank or of a special purpose trust, liquidity agreements, contracts commonly known as interest rate swap agreements, forward payment conversion agreements, futures or contracts providing for payments based on levels of, or changes in, interest rates or currency exchange rates, or contracts to exchange cash-flows or a series of payments, or contracts, including options, puts or calls to hedge payments, rate, spread, currency

exchange, or similar exposure, or any other financial instrument commonly known as a structured financial product.

(t) Purchase, with the proceeds of the bank's bonds, transition property, recovery property or bonds issued by, or for the benefit of, any sponsor in connection with a project, pursuant to a bond purchase agreement or otherwise. Bonds, recovery property or transition property purchased pursuant to this division may be held by the bank, pledged or assigned by the bank, or sold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other bonds issued by the bank, and notwithstanding any other provision of law, may be bought by the bank at private sale.

(u) Enter into purchase and sale agreements with all entities, public and private, including state and local government pension funds, with respect to the sale or purchase of bonds, recovery property or transition property.

(v) Invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, in obligations that are authorized by law for the investment of trust funds in the custody of the Treasurer.

(w) Authorize a special purpose trust or trusts to purchase or retain, with the proceeds of the bonds of a special purpose trust, recovery property, transition property or bonds issued by, or for the benefit of, any sponsor in connection with a project or issued by the bank or a special purpose trust, pursuant to a bond purchase agreement or otherwise. Bonds, recovery property or transition property purchased pursuant to this title may be held by a special purpose entity, pledged or assigned by a special purpose entity, or sold to public or private purchasers at public or negotiated sale, in whole or in part, with or without structuring, subordination or credit enhancement, separately or together with other bonds issued by a special purpose trust, and notwithstanding any other provision of law, may be bought by the bank or by a special purpose trust at private sale.

(x) Approve the issuance of any bonds, notes, or other evidences of indebtedness by the Rural Economic Development Infrastructure Panel, established pursuant to Section 15373.7.

(y) Approve the issuance of rate reduction bonds or of recovery bonds by an entity other than the bank or a special purpose trust to acquire recovery property or transition property upon approval of the transaction in a financing order by the Public Utilities Commission, as provided in Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code or in Article 5.6 (commencing with Section 848) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

(z) Apply for and accept subventions, grants, loans, advances, and contributions from any source of money, property, labor, or other things of value. The sources may include bond proceeds, dedicated taxes, state appropriations, federal appropriations, federal grant and loan funds, public and private sector retirement system funds, and proceeds of loans from the Pooled Money Investment Account.

(aa) Do all things necessary and convenient to carry out its purposes and exercise its powers, provided, however, that nothing herein shall be construed to authorize the bank to engage directly in the business of a manufacturing, industrial, real estate development, or nongovernmental service enterprise. Further, the bank shall not be organized to accept deposits of money for time or demand deposits or to constitute a bank or trust company.

**SECTION 9.** Section 63042 of the Government Code is amended to read as follows:

63042. Notwithstanding any other provision of this division, a project for the financing of transition costs and the acquisition of transition property or a project for the financing of recovery costs and the acquisition of recovery property upon the request of an electrical corporation shall be deemed to be in the public interest and eligible for financing by the bank, and Article 3 (commencing with Section 63040) and Article 5 (commencing with Section 63043) shall not apply to the project or financing. The bank shall consider a project for financing transition costs and the acquisition of transition property or a project for the financing of recovery costs and the acquisition of recovery property upon filing of an application by an appropriate participating party, on the terms and conditions the bank shall determine. The bank shall establish procedures for the expeditious review of applications from electrical corporations for the issuance or approval of rate reduction bonds or of recovery bonds. The review may be concurrent with the Public Utilities Commission's processing of an application for the pertinent financing order, so as to allow for the issuance of rate reduction bonds or of recovery bonds as quickly as feasible after the issuance of the pertinent financing order by the Public Utilities Commission.

Notwithstanding any other provision of this division, the bank shall have no authority to alter or modify any term or condition related to the transition costs or the transition property as set forth in the pertinent financing order, or related to the recovery costs or the recovery property and shall have no authority over any matter that is subject to the approval

of the Public Utilities Commission under Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code or under Article 5.6 (commencing with Section 848) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

**SECTION 10.** Subdivision (b) of Section 63701 of the Government Code is amended to read as follows:

(b) The total amount of bonds that may be outstanding at any one time under this chapter shall not exceed five billion dollars (\$5,000,000,000), exclusive of recovery bonds and rate reduction bonds and bonds issued by the bank pursuant to Article 5 (commencing with Section 63043) of Chapter 2 to finance economic development facilities. The total amount of rate reduction bonds that may be outstanding at any one time under this chapter shall not exceed ten billion dollars (\$10,000,000,000). The total amount of recovery bonds that may be issued under this chapter shall not exceed four billion dollars (\$4,000,000,000).

**SECTION 11.** The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

**SECTION 12.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**SECTION 13.** The Legislature finds and declares that, because of the unique circumstances applicable only to the Pacific Gas and Electric Company bankruptcy, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

**SECTION 14.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the

meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are set forth in Section 1. In order to provide relief for California consumers of electric energy at the earliest possible time, it is necessary for this act to take effect immediately.